

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR PASCO COUNTY  
CASE NUMBER CRC2014CF005586CFAXWS

STATE OF FLORIDA,

Plaintiff,

vs.

ADAM MATOS,

Defendant.

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PROCEEDINGS:           MOTIONS

BEFORE:                   THE HONORABLE PAT SIRACUSA, JR.  
Circuit Judge

DATE:                     November 5, 2015

PLACE:                    Courtroom 2-A  
West Pasco Judicial Center  
7530 Little Road  
New Port Richey, Florida 34654

REPORTER:                Victoria L. Campbell  
Registered Professional Reporter

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**APPEARING ON BEHALF OF  
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**APPEARING ON BEHALF OF  
THE DEFENDANT, ADAM MATOS:**

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P R O C E E D I N G S

THE COURT: All right. State of Florida versus Adam Matos. And I've got the Defense's motions and I've read them over. It's Case Number 2014-5586.

And Mr. Livermore --

Oh. And Mr. Matos is present.

Mr. Livermore, they're your motions; which one do you want to hear first?

MR. LIVERMORE: Well, we can do the *Brady* motion first, I guess.

THE COURT: Okay. This is the demand for disclosure of favorable evidence; is that what you're calling the *Brady* motion?

MR. LIVERMORE: Yes. Yes.

THE COURT: Okay.

MR. LIVERMORE: There's some case law that seems to indicate that if I don't raise this point by point, it may not be preserved if something comes up.

THE COURT: Okay.

MR. LIVERMORE: But these are all just demands for exculpatory evidence, mitigation, statements, deals, prior records, pending charges on witnesses, that kind of thing.

1 THE COURT: Okay. I have to tell you, this is  
2 the first time I've seen this one. Is that a new  
3 standard that I've not seen before or is this  
4 something you created?

5 MR. LIVERMORE: No. I'm not going to take any  
6 blame or credit for it. I didn't create it, but  
7 it's been -- the motion has been around for a  
8 while.

9 THE COURT: Okay. This one has? Okay.

10 MR. LIVERMORE: We don't always file it. But  
11 the nature of this case, I figured I'd better. It  
12 is to preserve the issue of *Brady*.

13 THE COURT: All right. Well, let's see here.  
14 Arraigned -- it's basically -- as I read it, it's  
15 basically a request that I instruct the State to  
16 follow the Rules of Evidence. I mean --

17 MR. LIVERMORE: Right. Right. That's true.  
18 That's why we don't always file it. But, you  
19 know --

20 THE COURT: Okay.

21 MR. LIVERMORE: -- there's a case or two out  
22 there that says if you don't file it, it may be  
23 waived. So, you know, I'm not going to take a  
24 chance of waiving any issues.

25 THE COURT: Well, the interesting part though

1 is like, for instance, in (a) of 6: All  
2 information that can be used to mitigate the  
3 homicides of the alleged victims in this case. And  
4 then you name each one of them. This request  
5 specifically includes all files in the actual or  
6 constructive possession or control of the State or  
7 its agents concerning the victims, specifically  
8 includes files of all local or municipal county and  
9 State agencies at any time ever investigated,  
10 arrested or prosecuted or supervised the  
11 confinement, imprisonment or incarceration of the  
12 four victims.

13 Now, that's kind of wide. And their  
14 obligation for discovery isn't to provide things to  
15 you that you could otherwise go get.

16 For instance, if you want Margaret Brown's  
17 power bill, if there was a delinquent power bill  
18 down at the electric company and you wanted to go  
19 get it, you could go get it. Why should I say --  
20 and I'm not sure that that's in any way exculpatory  
21 or mitigating, but, if you, for some reason,  
22 perceive it to be so, why should I order them to go  
23 get Margaret Brown's power bill or if Megan Brown  
24 once had a dog at large and there was a municipal  
25 county ordinance violation, why should I order them

1 to go get that file when it's the Clerk's Office  
2 and you could get it the same as they?

3 MR. LIVERMORE: I think this is more aimed at  
4 the types of files that we can't -- that we can't  
5 gather in exclusive control.

6 THE COURT: Give me a garden variety. Because  
7 I'm trying to imagine what they could get that you  
8 can't get.

9 MR. LIVERMORE: Criminal investigation.

10 THE COURT: How would it be --

11 MR. LIVERMORE: Again, relevancy is another  
12 issue.

13 THE COURT: All right. I was going to say,  
14 how would it be exculpatory if, for instance -- I'm  
15 just throwing this out there as a hypothetical --  
16 say Nicholas Leonard ten years ago was investigated  
17 for possession of marijuana. That would fall under  
18 your request. How would that be relevant or  
19 exculpatory in any way?

20 MR. LIVERMORE: If it involved any of the  
21 other folks involved, it could. You know? I mean,  
22 the problem is we don't know what we don't know.  
23 So it's kind of hard to say, well, this is in and  
24 this is out.

25 THE COURT: Okay. Well, I read it yesterday

1 and I'm reading it again just to make sure that  
2 nothing new has come to me. But, effectively,  
3 you've basically copied down the obligations of  
4 discovery and said, we're ordering you to order the  
5 State to comply with the obligations of discovery.

6 MR. LIVERMORE: That is correct. That's  
7 correct.

8 THE COURT: State, do you have any objection  
9 to me instructing you to follow the rules of  
10 discovery?

11 MR. LABRUZZO: Well, Judge, we do. In the  
12 respect that these are -- the rules of discovery in  
13 the State of Florida are different than most other  
14 jurisdictions where there is the opportunity for  
15 the Defense to take depositions. And we have  
16 listed witnesses and they have been taking  
17 depositions in these cases. And if they come and  
18 have reasonable suspicion to believe that such a  
19 file exists somewhere that they can't get access to  
20 that we can get access to, upon such request or  
21 upon such knowledge, we have no problem complying  
22 with the rules of discovery to go and collect such  
23 items. But to lay such a blanket order down upon  
24 the State is such an affirmative obligation to  
25 start hunting for files that may exist for people

1 that may not have lived in the State of Florida for  
2 periods of time becomes extremely onerous, not  
3 relevant, and difficult to comply with.

4 They have the ability to take discovery and  
5 have been participating in such. When these issues  
6 arise, the State is well aware of its obligations  
7 when it comes to these issues. And as they arise,  
8 we are sure to address them upon request upon  
9 knowledge of such things. But many of the things  
10 argued in here would require a court order. The  
11 grand jury statements, that would require a court  
12 order to release such things. We can't just  
13 divulge such things. There's certain protections  
14 in that. Some of these items may have other such  
15 protections by the Court.

16 The information here, if exists, State would  
17 upon learning of such things provide it to the  
18 defense. That is our obligation. We are aware of  
19 that. They also have the opportunity to take  
20 discovery, as I've said. And upon asking witnesses  
21 such questions and learn of such things, we're  
22 going to reply with it clearly. The blanket order  
23 non-specific request is difficult to comply with.  
24 We have 400 witnesses. We could spend the next six  
25 years trying to comply with this order before we



1 ever get to trial so that we're in compliance with  
2 the court order. And there are a number of  
3 witnesses. It's not reasonable in light of we  
4 don't know what we're looking for.

5 THE COURT: All right. I understand.

6 Anything else you want to put on the record,  
7 Mr. Livermore?

8 MR. LIVERMORE: No, sir.

9 THE COURT: All right. It's interesting  
10 because I neither want to say granted nor denied in  
11 this motion. It's too wide a demand for things for  
12 me just to say granted because I can't grant  
13 everything that's in the order. There's some  
14 things that just are certainly out of bounds. But,  
15 then, some things are just a recitation of the  
16 rules of discovery.

17 So granted as it relates to, State, you will  
18 follow the rules of discovery. Denied as it  
19 relates to causing you to go out and become the  
20 mitigation specialist for Mr. Matos.

21 So I'm going to go with denied and say,  
22 Mr. Livermore, anything specifically that's within  
23 the rules of discovery that you believe or have  
24 good cause to believe they're not following, bring  
25 it in and on a case-by-case basis.

1 All I'm doing is instructing the State to  
2 follow the rules of discovery. So it's basically  
3 denied -- denied as stated. And I'll write an  
4 order that says denied as stated with the intention  
5 to allow you to proceed on anything that's  
6 specific. Okay?

7 And, State, once again, I remind you follow  
8 the rules of discovery as set out by Florida  
9 Statute and the Florida Constitution.

10 All right. Motion to declare the statute  
11 unconstitutional. And, you know, I know that the  
12 Supreme Courts have been both been very active in  
13 working with the Florida Statute and the death  
14 penalty in general. Is there anything new or  
15 innovative that's not contained within your  
16 standard motion which I have seen many times?

17 MR. LIVERMORE: No, sir.

18 THE COURT: Okay.

19 MR. LIVERMORE: This is the part about  
20 mitigators outweighing the aggravators, which is a  
21 due process violation.

22 THE COURT: Right. The most recent Florida  
23 Supreme Court cases haven't come out yet and said  
24 one way or another what we're going to do.

25 MR. LIVERMORE: Correct.

1 THE COURT: So we're still waiting.

2 MR. LIVERMORE: This is not an issue in *Hurst*  
3 if that's the one you're referring to.

4 THE COURT: No. I'm not talking about -- I  
5 know that there's always ten --

6 MR. LIVERMORE: Right.

7 THE COURT: -- you know, cases on their docket  
8 where they're dealing with this type of an issue.  
9 But nothing new has come out that I've seen in the  
10 last four months.

11 MR. LIVERMORE: That's correct.

12 THE COURT: So, State, is there anything you  
13 want to put on the record on this one? Otherwise,  
14 I'm going to give the ruling that I've given in all  
15 the other previous ones.

16 MR. LABRUZZO: No, Judge. No additional  
17 argument.

18 THE COURT: All right. All right. Denied,  
19 the motion to declare the statute unconstitutional.

20 Mr. Matos, well, this one is a fairly standard  
21 motion.

22 And is there anything else on the docket for  
23 Mr. Matos today?

24 MR. LIVERMORE: No, sir.

25 THE COURT: State, anything else you want to

1 do on Mr. Matos's case today?

2 MR. LABRUZZO: When is our next pre-trial?

3 MR. SARABIA: January.

4 THE COURT: Yeah. It's not until January?

5 MR. LABRUZZO: Just checking.

6 THE COURT: We're still proceeding with  
7 discovery?

8 MR. SARABIA: Yes, Judge. I think we've  
9 deposed approximately 115 witnesses. There's 37  
10 for this afternoon. So we have been moving much  
11 swifter on that.

12 THE COURT: Okay. All right.

13 MR. SARABIA: The lady doing most of the FDLE  
14 examinations, she actually testified in a trial  
15 earlier this week and I spoke with her. My  
16 understanding is that all -- almost all of the  
17 analysis is complete and we should have it to the  
18 Defense shortly, as soon as we get those reports.

19 THE COURT: All right. And is there a victim  
20 or victim's representative that wants to speak this  
21 morning?

22 MR. SARABIA: There are representatives of the  
23 victim, Judge. I don't believe -- they don't want  
24 to make any statements at this time.

25 THE COURT: Okay. Mr. Matos, do you have any

1           questions for me?

2                   THE DEFENDANT: No, sir.

3                   THE COURT: All right. Then I'll see you back  
4           in January.

5 (Proceedings concluded.)

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STATE OF FLORIDA     )  
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COUNTY OF PASCO     )

I, Victoria L. Campbell, Registered  
Professional Reporter, certify that I was authorized  
to and did stenographically report the foregoing  
proceedings and that the transcript is a true  
record.

DATED this 2nd day of August, 2018.

s/Victoria L. Campbell

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Victoria L. Campbell, RPR